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Nevada Property 1 LLC d/b/a
the Cosmopolitan of Las Vegas

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHARLES BOWES, an individual; and
DAVID KAMSLER, an individual; on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

NEVADA PROPERTY 1 LLC, a Delaware
limited liability company d/b/a The
Cosmopolitan of Las Vegas,

Defendant.

Case No.: 2:17-cv-02913-GMN-VCF

**STIPULATION AND ORDER TO
EXTEND DEADLINE FOR DEFENDANT
TO RESPOND TO THE COMPLAINT**

(SECOND REQUEST)

On November 20, 2017, Charles Bowes, David Kamsler and numerous other plaintiffs (collectively, “Plaintiffs”) filed the instant case against Nevada Property 1 LLC d/b/a the Cosmopolitan of Las Vegas (the “Cosmopolitan”) alleging multiple causes of action premised on alleged violations of the Internet Tax Freedom Act (“ITFA”) and the Clark County Transient Lodging Tax (“Transient Lodging Tax”). Relatedly, counsel for Plaintiffs filed the following nine additional lawsuits (the “Related Lawsuits”) in this District Court:

- *Cabral et al. v. Caesars Entertainment Corporation et al.*, Case No. 2:17-cv-02841-APG-VCF (filed on November 10, 2017);
- *Martinez et al. v. Las Vegas Sands Corp. et al.*, Case No. 2:17-cv-02859-APG-NJK (filed on November 14, 2017);
- *Schnitzer et al. v. Wynn Resorts, Ltd. et al.*, Case No. 2:17-cv-02868-RFB-GWF (filed on November 15, 2017);
- *Phelps et al. v. MGM Resorts International et al.*, Case No. 2:17-cv-02848-APG-CWH (filed on November 13, 2017);
- *Chapman v. Penn National Gaming, Inc. et al.*, Case No. 2:17-cv-02924-GMN-PAL (filed on November 21, 2017);
- *Shapiro v. Treasure Island, LLC*, Case No. 2:17-cv-02930-APG-CWH (filed on November 22, 2017);
- *Inman v. Las Vegas Resort Holdings, LLC*, Case No. 2:17-cv-02950-JAD-NJK (filed on November 28, 2017);
- *DiNino v. Four Seasons Hotels Inc.*, Case No. 2:17-cv-2961-JAD-GWF (filed on November 29, 2017); and
- *Robinson v. Westgate Resorts Inc.*, Case No. 2:18-cv-95 (before Judge Dorsey) (filed on January 17, 2018).

Each of the lawsuits filed by counsel for Plaintiffs, including the instant case (collectively, the “Resort Fee Lawsuits”), contains virtually identical allegations and requests for relief. Each case will also likely involve a similar determination of whether the adjudicating court has subject matter jurisdiction over the action. Federal Rule of Civil Procedure 42 allows for the

1 consolidation of multiple cases for the limited purpose of resolving common questions of law,
2 including a determination of subject matter jurisdiction. *See* Fed. R. Civ. 42(a)(1); *see also*
3 *Beddoe v. United States*, 1993 WL 134827, at *1 (E.D. Cal. Feb. 2, 1993) (consolidating cases
4 under Rule 42(a) for the purpose of evaluating subject matter jurisdiction).

5 In an effort to avoid duplicative legal briefing and to efficiently address the common issue
6 of subject matter jurisdiction, the parties to the Resort Fee Lawsuits have entered into a separate
7 agreement (the “Agreement”), attached hereto as **Exhibit 1**. The purpose of the Agreement is to
8 consolidate the issue of subject matter jurisdiction and file a single motion on that issue in the
9 first filed case before Judge Gordon, specifically: *Cabral et al. v. Caesars Entertainment*
10 *Corporation et al.*, Case No. 2:17-cv-02841-APG-VCF (the “Caesars Case”). In order to address
11 the issue of subject matter jurisdiction in an efficient manner, the Agreement sets forth that the
12 defendants to the Resort Fee Lawsuits shall coordinate to present a single motion to dismiss on
13 the basis of subject matter jurisdiction (the “Subject Matter Jurisdiction Motion”) that will be
14 filed by the Caesars entities in the Caesars Case. Additionally, the parties in the Resort Fee
15 Lawsuits that are presently before Judge Gordon also agreed to consolidate their respective cases
16 for the purpose of allowing Judge Gordon to decide the issue of subject matter jurisdiction in one
17 consolidated brief.

18 On February 22, 2018, Judge Gordon entered an order granting the stipulations in the
19 cases before him, staying all deadlines and consolidating the cases already assigned to him solely
20 for the purpose of ruling on the Subject Matter Jurisdiction Motion. [Dkt. # 21].

21 For judicial efficiency, the parties in all other cases, including the Plaintiffs herein, met
22 and conferred and collectively agreed to stay their respective cases pending guidance on the
23 Subject Matter Jurisdiction Motion in the Caesars Case, recognizing that any order entered in the
24 Caesars Case is discretionary and not binding on this Court.

25 Pursuant to that Agreement, Plaintiffs and the Cosmopolitan, by and through their
26 undersigned counsel, HEREBY STIPULATE that:
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28

1 1. The current deadline of February 26, 2018 for the Cosmopolitan to file a response
2 to Plaintiffs' Complaint (ECF No. 1) shall be extended to 30 days from the date that the Court in
3 the Caesars Case issues a final ruling on the Subject Matter Jurisdiction Motion;

4 2. If Judge Gordon grants the Subject Matter Jurisdiction Motion, then Plaintiffs will
5 either voluntarily dismiss their Complaint in this case or should Plaintiffs choose to appeal Judge
6 Gordon's order, then Plaintiffs will request a stay in this case pending the resolution of their
7 appeal and if the appeal is resolved such that there is no federal jurisdiction, then Plaintiffs will
8 dismiss the Complaint without prejudice; and

9 3. If Judge Gordon denies the Subject Matter Jurisdiction Motion, then the
10 Cosmopolitan will not re-file the Subject Matter Jurisdiction Motion in this case.

11 These stipulations are made in agreement between Plaintiffs and the Cosmopolitan and are
12 warranted because they conserve judicial and party resources by allowing for an efficient
13 determination of common issues of law that exist in multiple related lawsuits. Plaintiffs reserve
14 all rights to seek coordination or consolidation with respect to issues other than subject matter
15 jurisdiction at a later date. Pursuant to the Agreement, filing of the Subject Matter Jurisdiction
16 Motion does not constitute a waiver of any defense or argument and shall not preclude the
17 Cosmopolitan from asserting any additional defenses or arguments at a later date, including,

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without limitation, any defenses or motions permitted by Federal Rule of Civil Procedure 12(b) or a motion to compel arbitration.

Dated: February 26, 2018

Dated: February 26, 2018

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN

SNELL & WILMER L.L.P.

/s/ Don Springmeyer

/s/ Alex L. Fugazzi

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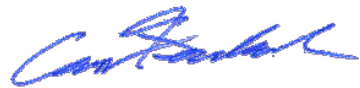
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*Attorneys for Plaintiffs
Charles Bowes and David Kamsler*

IT IS SO ORDERED.



Dated: 2-26-2018

UNITED STATES MAGISTRATE JUDGE

IT IS HEREBY ORDERED that a status hearing is scheduled for 11:00 AM, August 22, 2018, in Courtroom 3D.

4839-8274-1598